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HOUSE BILL 703

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

James R.J. Strickler

AN ACT

RELATING TO CONTROLLED SUBSTANCES; PROVIDING FOR FORFEITURE OF
REAL PROPERTY THAT IS USED TO COMMIT A FELONY OFFENSE IN
VIOLATION OF THE CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-31-34 NMSA 1978 (being Laws 1972,
Chapter 84, Section 33, as amended) is amended to read:

"30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following
are subject to forfeiture:

A. all controlled substances and all controlled
substance analogs [~~which~~] that have been manufactured,
distributed, dispensed or acquired in violation of the
Controlled Substances Act;

B. all raw materials, products and equipment of any
kind, including firearms [~~which~~] that are used or intended for

underscored material = new
[bracketed material] = delete

1 use in manufacturing, compounding, processing, delivering,
2 importing or exporting any controlled substance or controlled
3 substance analog in violation of the Controlled Substances Act;

4 C. all property ~~[which]~~ that is used or intended
5 for use as a container for property described in Subsection A
6 or B of this section;

7 D. all conveyances, including aircraft, vehicles or
8 vessels ~~[which]~~ that are used or intended for use to transport
9 or in any manner to facilitate the transportation for the
10 purpose of sale of property described in Subsection A or B of
11 this section;

12 E. all books, records and research products and
13 materials, including formulas, microfilm, tapes and data
14 ~~[which]~~ that are used or intended for use in violation of the
15 Controlled Substances Act;

16 F. all real property, including any right, title
17 and interest in any lot or tract of land and any appurtenances
18 or improvements, that is used or intended to be used, in any
19 manner or part, to commit or to facilitate the commission of a
20 felony offense in violation of the Controlled Substances Act;

21 ~~[F.]~~ G. narcotics paraphernalia or money ~~[which]~~
22 that is a fruit or instrumentality of the crime;

23 ~~[G.]~~ H. notwithstanding Subsection D of this
24 section:

25 (1) no conveyance used by ~~[any]~~ a person as a

.175770.1

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1 common carrier in the transaction of business as a common
2 carrier is subject to forfeiture under this section unless it
3 appears that the owner or other person in charge of the
4 conveyance is a consenting party or privy to a violation of the
5 Controlled Substances Act;

6 (2) no conveyance is subject to forfeiture
7 under this section by reason of [~~any~~] an act or omission
8 established for the owner to have been committed or omitted
9 without [~~his~~] the owner's knowledge or consent;

10 (3) a conveyance is not subject to forfeiture
11 for a violation of law the penalty for which is a misdemeanor;
12 and

13 (4) a forfeiture of a conveyance encumbered by
14 a bona fide security interest shall be subject to the interest
15 of a secured party if the secured party neither had knowledge
16 of nor consented to the act or omission; and

17 [~~H-~~] I. all drug paraphernalia as defined by
18 Subsection [~~W~~] V of Section 30-31-2 NMSA 1978."

19 Section 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2009.

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